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Attorneys for John Hancock Life Insurance Company (U.S.A.), John Hancock Investment Management Services, LLC, John Hancock Funds, LLC, and John Hancock Distributors, LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

)	
DANIELLE SANTOMENNO, et al.,)	
)	
Plaintiffs,)	Civil Action No. 2:10-cv-01655-WJM-MF
)	
vs.)	
)	<i>Document electronically filed.</i>
John Hancock Life Insurance)	
Company (U.S.A.), John Hancock)	
Investment Management)	ORAL ARGUMENT REQUESTED
Services, LLC, John Hancock)	
Funds, LLC, and John Hancock)	NOTICE OF MOTION TO DISMISS THE
Distributors, LLC,)	SECOND AMENDED CLASS ACTION
)	COMPLAINT PURSUANT TO
Defendants.)	FED. R. CIV. P. 12(b)(6)
)	

TO: Robert Lakind
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Attorneys for Plaintiff

COUNSEL:

PLEASE TAKE NOTICE that on a date and time to be set by the Court, Goodwin Procter LLP and Gibbons P.C., attorneys for defendants John Hancock Life Insurance Company (U.S.A.), John Hancock Funds, LLC, John Hancock Investment Management Services, LLC, and John Hancock Distributors, LLC (“Defendants”), shall move for an Order under Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiffs’ Second Amended Class Action Complaint with prejudice for failure to state a claim upon which relief may be granted, on the grounds that: (1) Plaintiffs lack standing to assert their claim under § 36(b) of the Investment Company Act of 1940, as amended, (“ICA”) and fail to state a violation of ICA § 36(b); (2) Plaintiffs lack standing to assert their claim under ICA § 47(b) and fail to state a violation of ICA § 27(f); (3) Plaintiffs cannot assert their claims under the Employee Retirement Income Security Act of 1974, as amended, (“ERISA”), without having first made a demand on the trustees of their retirement plans and fail to plead that John Hancock Life Insurance Company (U.S.A.) is a fiduciary subject to ERISA; and (4) Plaintiffs fail to state a claim against John Hancock Funds, LLC (“JHF”) or John Hancock Distributors, LLC (“JHD”) because the relief sought as to them is unavailable.

PLEASE TAKE FURTHER NOTICE that in support of the Motion, Defendants shall rely upon the brief filed in support of Defendants’ Motion to Dismiss Plaintiffs’ Second Amended Class Action Complaint, the Certification of Alison V. Douglass, Esq. and the exhibits annexed thereto, and all other pleadings and memoranda on file in this matter.

PLEASE TAKE FURTHER NOTICE that oral argument is requested.

PLEASE TAKE FURTHER NOTICE that a proposed form Order is submitted herewith.

Dated: December 21, 2010

Respectfully Submitted,

s/ Kevin J. McKenna

Kevin J. McKenna, Esq.

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